

REMARKS

Claims 1-30 are currently pending in this application. Claims 1-9, 11-15, 17-23, and 25-29 have been rejected. It is noted that 30 total claims were provided in the application and presented for examination. However, the Examiner may have inadvertently missed Claim 30, which was on a separate sheet.

Claims 10, 16, and 24 have been objected to as being dependent upon a rejected claim, but have been found to be allowable if rewritten to include the limitations of the base claims and the intervening claims. New claims, 31-33 have therefore been added. Please cancel claims 10, 16 and 24.

An amended claims set is provided herewith. No new matter has been added by these amendments. Support for the amendments can be found throughout the specification.

Claims 11 and 20 have been amended to reflect Applicants' discovery that isolating soluble dietary fiber can be efficiently conducted using an enzyme that is a cellulase, hemicellulase, xylanase or pentosanase. Support for this amendment can be found, for example, in the specification at page 4, lines 4-7.

§ 102 Rejections

Claims 11, 13-15, 20, and 21-23 have been rejected under 35 U.S.C. §102 as being anticipated by Bhatti, J. Cereal Sci. 22:163-170 (1995).

Bhatti describes processes for extracting and purifying beta glucan from hull-less barley and oat bran. For a reference to be anticipating, it must teach each and every element of the claims. It is clearly found, and the Examiner has even indicated, that Bhatti does not teach the use of specific enzyme preparations. As now claimed, a the inventive process isolates soluble fiber with beta-glucan using specific enzymes. There is no teaching in Bhatti of which selects and uses specific enzymes chosen from cellulase, hemicellulase, xylanase or pentosanase, in amounts effective to hydrolyze the soluble components and reduce solution viscosity.

Accordingly, withdrawal of this rejection is respectfully requested as the reference fails to anticipate the claimed invention.

§ 103 Rejection

Claims 1-9, 11-15, 17-23 and 25-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bhatti in view of Kanauchi and Bamforth.

Bhatti has been discussed above. The secondary references of Kanauchi and Bamforth relate to methods of prepare cell walls of barley to achieve beta-glucan

release. There is some mention of various enzymes that can be used to promote solubility of beta-glucan present in the barley.

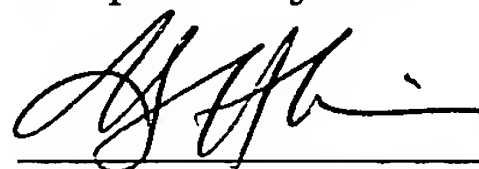
Applicants assert that the Examiner improperly relies upon hindsight to combine the enzyme descriptions of Kanauchi and Bamforth with the teaching of Bhatti. As acknowledged by the Examiner, Bhatti does not describe the use of specific enzymes to enhance an isolation process for beta glucan. Indeed, both Kanauchi and Bamforth set forth a variety of enzymes that are useful in purification processes. However, neither reference specifically points a skilled artisan to use such enzymes in the specifically claimed isolation process as Applicants' presently claimed invention. Absent any teaching or even some suggestion by any of the references that one could combine the enzymes of Kanauchi and Bamforth with a process such as that described in Bhatti, a skilled artisan would not have had the motivation to make such a combination nor have an expectation of successfully achieving Applicants' claimed process. Use of hindsight is improper, as there must be some clear indication and suggestion in at least one reference to lead a skilled artisan to conclude that exogenic enzymes can be advantageous in a process where acidified aqueous slurry of grain material is provided, as Applicants now claim.

Accordingly, withdrawal of this rejection is respectfully requested.

Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested. Please contact the undersigned if it will assist in expediting prosecution of these claims.

Please apply any charges or refunds to Deposit Account No. 07-0900 and provide notification of such transaction(s) to the address below.

Respectfully submitted,



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